IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 6078 OF 2007

Shyam Ratanlal Dargad & anr.... Petitioner

versus

Ramvilas Jayanarayan Dargad
since deceased through L:Rs.
Mahesh Ramvilas Dargad & ors ..... Respondent.

Shri M.A.Utagirkar for the petitioner.
Shri P.P.Chavan i/b. Vijay M. Patil for Respondents. 1A to 1C.

CORAM; A.P. DESHPANDE, J.
DATED; 10TH OCTOBER, 2007

P.C.;

1. Predecessor in title of the respondent nos.1(A) to 1(C) instituted a suit for possession of premises. The suit was instituted in the year 2003 and thus is governed by the amended provision of Order 8 of C.P.C. The defendants including the petitioners did not file written statement. Hence the court proceeded against defendants without written statement. Plaintiff examined his witnesses. The defendants did not lead any evidence. However moved an application seeking permission to file written statement belatedly. The trial court being of the view that no sufficient reason has been put forth for failure on the part of the defendants to file written statement, it has

rejected the application. The impugned order reveals that on more than three occasions identical applications, seeking permission to file written statement, were filed and were rejected by the trial court. Instead of challenging the order, defendant/petitioners kept on moving the trial court by identical applications. Holding that the earlier orders operate as res-judicata, the last application came to be rejected. The learned counsel for the respondent 1(A) to 1(C) submits that the entire evidence is over and the matter is now fixed for final argument.

2. Perused the impugned order. The same do not call for any interference as the court has not committed any illegality. Hence writ petition being devoid of any substance, is rejected summarily.

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